

AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court District of Connecticut on the following

☒ Trademarks or ☐ Patents. (☐ the patent action involves 35 U.S.C. § 292.):

DOCKET NO. 3:11 cv 1117 (JCH)	DATE FILED 7/15/2011	U.S. DISTRICT COURT District of Connecticut
PLAINTIFF Sprinkles Cupcakes, Inc.		DEFENDANT Pink Sprinkles, LLC doing business as Pink Sprinkles Cupcakes
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 3,250,609		SEE ATTACHED COPY OF COMPLAINT
2 3,271,643		
3 3,306,772		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
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4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Roberta D. Tabora	(BY) DEPUTY CLERK /s/ Tasha Simpson	DATE 7/15/2011
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

SPRINKLES CUPCAKES, INC., a Texas
corporation,

Plaintiff,

v.

PINK SPRINKLES, LLC, dba PINK
SPRINKLES CUPCAKES, a Connecticut limited
liability company,

Defendant.

CASE NO.:

**COMPLAINT FOR LANHAM ACT
VIOLATIONS AND UNFAIR TRADE
PRACTICES**

DEMAND FOR JURY TRIAL

Plaintiff Sprinkles Cupcakes, Inc. ("Plaintiff" or "Sprinkles") alleges as follows:

NATURE OF ACTION

1. This is an action for trademark infringement under 15 U.S.C. § 1114, false designation of origin under 15 U.S.C. § 1125(a), violations of the Anti-cybersquatting Consumer Protection Act under 15 U.S.C. § 1125(d), and violations of Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. 42-110a et seq.

PARTIES

2. Sprinkles is a Texas Corporation with its principal place of business at 9635 Little Santa Monica Boulevard, Beverly Hills, CA 90210.

3. Sprinkles is informed and believes, and on that basis alleges, that defendant Pink Sprinkles, LLC ("Defendant" or "Pink Sprinkles") is a Connecticut limited liability company doing business as Pink Sprinkles Cupcakes, with a principal place of business at 1215 Post Road, Fairfield, CT 06824.

JURISDICTION AND VENUE

4. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1332, and 1338. This Court has supplemental jurisdiction under 28 U.S.C.

§ 1367 for related state-law claims as well as original jurisdiction under 28 U.S.C. § 1338(b) because the state-law claims are joined to a substantial and related trademark claim.

5. This Court has personal jurisdiction over Defendant because Defendant is a Connecticut corporation located in Fairfield, Connecticut.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this district, including but not limited to the Defendant's use of an infringing trademark in this district, which is likely to cause marketplace confusion in this district.

STATEMENT OF FACTS

Sprinkles' Trademarks

7. Sprinkles began selling bakery goods in 2004, and in 2005 opened its first retail bakery in Beverly Hills, California. In short order, Sprinkles became a nationwide phenomenon. The company and its now-famous bakery goods have been featured on numerous television shows including *The Oprah Winfrey Show*, *The Martha Stewart Show*, *The Today Show*, *Good Morning America*, *Nightline*, *Access Hollywood* and *Entertainment Tonight*. Sprinkles has also been featured in major publications such as *The New York Times*, *Time*, *People*, *InStyle*, *Bon Appetit*, *Gourmet* and *Travel & Leisure*. The pastry chef and co-owner of Sprinkles is a celebrity judge on the reality television show *Cupcake Wars*, now in its third season on the Food Network.

8. Sprinkles' success and nationwide fame has afforded the company the opportunity to expand throughout the United States. In addition to its Beverly Hills store, Sprinkles now operates stores in New York, Washington, DC, Newport Beach, Palo Alto, La Jolla, Chicago, Dallas, Houston, and Scottsdale. Sprinkles is also planning to open stores in other major cities throughout the United States and around the world, including Boston, Philadelphia, Toronto, London, and Paris.

9. Sprinkles' retail stores are not the only places where prospective customers can order and purchase Sprinkles' bakery goods. Sprinkles maintains a website at www.sprinkles.com (the "Sprinkles Website"), where customers can view Sprinkles' menu and

place orders for Sprinkles' bakery goods. The Sprinkles Website has hundreds of thousands of unique visitors per month. Sprinkles' products are also available in Williams-Sonoma stores throughout the United States. Residents of Connecticut have purchased Sprinkles Cupcake Mixes in the numerous Williams-Sonoma stores in and around the Connecticut area, including the stores in Stamford, Westport, and Danbury since December 2006. Connecticut residents have also purchased Sprinkles merchandise and have placed phone orders at Sprinkles' retail stores for friends and family who live near a Sprinkles store.

10. Since selling its first cupcake in 2004, Sprinkles has continuously used and extensively marketed its trademarks, which include SPRINKLES CUPCAKES, SPRINKLES CUPCAKES and Design, and SPRINKLES (collectively the "Sprinkles Marks"). As a result of Sprinkles' success and publicity, the Sprinkles Marks have acquired significant recognition among consumers, and the general public has come to associate the Sprinkles Marks with Sprinkles' premium-quality bakery goods.

11. Sprinkles has been using the trademark SPRINKLES CUPCAKES in connection with bakery goods since at least as early as February 1, 2004 and with retail shops featuring baked goods since at least as early as April 13, 2005.

12. On June 12, 2007, Sprinkles obtained a federal registration for its SPRINKLES CUPCAKES trademark, U.S. Trademark Registration No. 3,250,609, covering "bakery goods" and "retail shops featuring baked goods."

13. Sprinkles has been using the trademark SPRINKLES CUPCAKES and Design in connection with bakery goods since at least as early as October 19, 2004 and with retail shops featuring baked goods since as early as April 13, 2005.

14. On July 31, 2007, Sprinkles obtained a federal registration for its SPRINKLES CUPCAKES and Design trademark, U.S. Trademark Registration No. 3,271,643, covering "bakery goods" and "retail shops featuring baked goods."

15. Sprinkles has been using the trademark SPRINKLES in connection with bakery goods since at least as early as February 1, 2004 and with retail shops featuring baked goods since as early as April 13, 2005.

16. On October 9, 2007, Sprinkles obtained a federal registration for its SPRINKLES trademark, U.S. Trademark Registration No. 3,306,772, covering “bakery goods” and “retail shops featuring baked goods.”

Defendant’s Infringing Conduct

17. On information and belief, years after Sprinkles launched its business and began using the Sprinkles Marks, Defendant opened a retail bakery in Fairfield, Connecticut. Despite Sprinkles’ national publicity and well-known registered trademarks for the Sprinkles Marks, Defendant adopted the trademarks PINK SPRINKLES and PINK SPRINKLES CUPCAKES to promote its bakery.

18. On information and belief, on or about August 20, 2009, the proprietor of Pink Sprinkles registered the domain name www.pinksprinklescupcakes.com, and Pink Sprinkles has been operating a website at this Internet address (the “Pink Sprinkles Website”). The Pink Sprinkles Website prominently displays the PINK SPRINKLES trademark in the upper left-hand corner of each and every page. The Pink Sprinkles Website describes Pink Sprinkles as “Fairfield’s first cupcake boutique,” and displays photos of cupcakes and other bakery items offered at the Pink Sprinkles store.

19. On information and belief, Pink Sprinkles opened its bakery in Fairfield, Connecticut in August 2009, and features cupcakes and other bakery items at the store.

20. In view of the extreme similarity between Defendant’s PINK SPRINKLES and PINK SPRINKLES CUPCAKES trademarks and the Sprinkles Marks for use in connection with identical bakery goods, Defendant’s use of the PINK SPRINKLES and PINK SPRINKLES CUPCAKES trademarks is likely to cause confusion in the marketplace. The resulting confusion will damage Sprinkles and injure its reputation in the trade and with the public.

21. Since first discovering Defendant's adoption of the PINK SPRINKLES and PINK SPRINKLES CUPCAKES trademarks in or about January 2011, Sprinkles has repeatedly requested, by letter, e-mail, and phone, that Defendant promptly transition to a different name. Defendant has refused.

FIRST CAUSE OF ACTION

(Infringement of a Registered Trademark, 15 U.S.C. § 1114)

22. Plaintiff realleges and incorporates by reference the paragraphs above.

23. Sprinkles is the owner of the federal trademark registrations for the Sprinkles Marks as set forth above.

24. Defendant has used in commerce, without Sprinkles' consent, marks that are highly similar to the Sprinkles Marks and that, taking into account the extremely similar commercial activities of the parties and other factors, are likely to cause confusion, deception, or mistake among consumers.

25. Defendant's unauthorized use of the PINK SPRINKLES and PINK SPRINKLES CUPCAKES trademarks has damaged Sprinkles and the business and goodwill symbolized by the Sprinkles Marks.

26. As a consequence of Defendant's unauthorized use of the Sprinkles Marks, Sprinkles is entitled to an injunction as set forth below, an order of destruction of all of Defendant's infringing materials and products, Defendant's profits, Sprinkles' damages, and Sprinkles' costs of action.

27. As a consequence of Defendant's willful infringement, Sprinkles is entitled to recover treble damages or profits.

SECOND CAUSE OF ACTION

(False Designation of Origin, 15 U.S.C. § 1125(a))

28. Sprinkles realleges and incorporates by reference the paragraphs above.

29. Defendant's acts described above, including its use in commerce of marks that are highly similar to the Sprinkles Marks, are likely to cause confusion, mistake, or deception as to

the source, sponsorship, affiliation or approval of Defendant's goods and services. Further, Defendant's acts described above constitute false representation of fact that are also likely to cause confusion, mistake, or deceptive as to the source, sponsorship, affiliation, or approval of Defendant's goods and services.

30. Defendant's unauthorized use of the PINK SPRINKLES and PINK SPRINKLES CUPCAKES trademarks has damaged Sprinkles and the business and goodwill symbolized by the Sprinkles Marks.

31. As a consequence of Defendant's unauthorized use of the Sprinkles Marks, Sprinkles is entitled to an injunction as set forth below, an order of destruction of all of Defendant's infringing materials and products, Defendant's profits, Sprinkles' damages, and Sprinkles' costs of action.

32. As a consequence of Defendant's willful infringement, Sprinkles is entitled to recover treble damages or profits.

THIRD CAUSE OF ACTION

(Violation of Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d))

33. Sprinkles realleges and incorporates by reference the paragraphs above.

34. Defendant registered the domain name www.pinksprinklescupcakes.com and uses the domain name in connection with a website advertising its retail bakery.

35. Defendant has registered and used a domain name that is confusingly similar to the Sprinkles Marks.

36. Defendant did not use the domain name www.pinksprinklescupcakes.com in connection with the bona fide offering of any goods or services before Sprinkles developed enforceable rights in the Sprinkles Marks.

37. Defendant does not make bona fide noncommercial or fair use of the Sprinkles Marks at www.pinksprinklescupcakes.com.

38. Defendant intends to divert consumers seeking Sprinkles' products and services to its own retail bakery website at www.sprinkles.com and www.sprinklescupcakes.com by

creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the website at www.pinksprinklescupcakes.com. Defendant's acts are for commercial gain and harm the goodwill Sprinkles has earned in its Sprinkles Marks.

39. Defendant's acts described above demonstrate bad faith intent to profit from the Sprinkles Marks.

40. As a consequence, Sprinkles is entitled to an injunction as set forth below, Defendant's profits, Sprinkles' damages, statutory damages, and costs of action.

41. Because this is an exceptional case, involving calculated and willful misconduct by Defendant, Sprinkles is entitled to recover treble damages or profits.

FOURTH CAUSE OF ACTION

(Unfair Trade Practice under Connecticut State Law)

42. Sprinkles realleges and incorporates by reference the paragraphs above.

43. Defendant's use of the PINK SPRINKLES and PINK SPRINKLES CUPCAKES trademarks to promote, market, or sell products and services constitutes an Unfair Trade Practice pursuant to Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. 42-110a et seq. Defendant's use of the PINK SPRINKLES and PINK SPRINKLES CUPCAKES trademarks constitutes an unfair method of competition and/or an unfair or deceptive act or practice in the conduct of trade or commerce. Defendant's unfair trade practice has caused and will continue to cause damage to Sprinkles, for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

a. That this Court grant a preliminary and permanent injunction enjoining Defendant and any affiliated companies, successors, assigns, officers, directors, agents, partners, servants, and employees, and all others acting in concert with it, from:

i. using directly or indirectly, in connection with any goods, services or commercial activities, the name PINK SPRINKLES, PINK SPRINKLES CUPCAKES, or any other trademark, service mark, trade name, or domain name that incorporates,

imitates or simulates, or is otherwise confusingly similar to, the Sprinkles Marks;

ii. using any other false designations of origin or false description or representation or doing any other acts or things calculated or likely to cause confusion or mistake in the mind of the trade or the public, or to deceive the trade or the public into believing that Defendant's activities are in any way sponsored, licensed or authorized by or affiliated or connected with Sprinkles; and

iii. engaging directly or indirectly in any practices, including those complained of herein, that tend to compete unfairly with, or injure, Sprinkles, its business, or the goodwill related to Sprinkles' business or the Sprinkles Marks;

b. Order Defendant to deliver for destruction all media, signs, prints, advertising, packaging, products, labels, wrappers, receptacles, boxes, cartons, forms, tags, patches, printed materials and promotional materials in its possession or control that bear the trademark PINK SPRINKLES or PINK SPRINKLES CUPCAKES;

c. Order Defendant to discontinue the use of the name PINK SPRINKLES or PINK SPRINKLES CUPCAKES on the Pink Sprinkles Website, electronic mail addresses or other electronic media;

d. Order Defendant to transfer the domain name www.pinksprinklescupcakes.com to Sprinkles;

e. Order Defendant to pay the maximum statutory damages available for the registration and/or use of the www.pinksprinklescupcakes.com domain name;

f. Direct Defendant to account to Sprinkles for its profits derived from use of the trademarks PINK SPRINKLES and PINK SPRINKLES CUPCAKES and order that Sprinkles recover its damages arising out of the aforesaid acts of infringement in a sum equal to three times such profits or damages (whichever is greater), pursuant to 15 U.S.C. § 1117(a);

g. Order that Sprinkles recover its damages arising out of the aforesaid acts of unfair trade practices and recover punitive damages pursuant to Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. 42-110g;

g. Order Defendant to file with the Court and to serve on counsel for Sprinkles within 30 days of the entry of any injunction issued by the Court in this action, a sworn written statement pursuant to 15 U.S.C. § 1116(a) setting forth in detail the manner and form in which Defendant has complied with any injunction which the Court may enter in this action;

h. Award Sprinkles reasonable attorneys' fees and costs and disbursements incurred by Sprinkles as a result Defendant's intentional infringement, pursuant to 15 U.S.C. § 1117(a);

i. Award such other and further relief as the Court may deem just and proper.

Dated: July 15, 2011

/s/Steven M. Coyle
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JURY DEMANDED

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff respectfully demands a trial by jury of all issues in this action so triable.

Dated: July 15, 2011

/s/Steven M. Coyle

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